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Kevin H. Sharp

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE

WM CAPITAL PARTNERS XXIII, LLC,)
Plaintiff/Counter-defendant,)
v.) Case No. 2-12-cv-0027
MAPLE LEAF DEVELOPMENT, L.L.C.,) JUDGE SHARP
LARRY E. PATTERSON, MATT C.)
CALDWELL, and RAYMOND K. MAYS,) MAGISTRATE JUDGE KNOWLES
Defendants/Counter-claimants.)

MOTION FOR RECONSIDERATION AND CLARIFICATION

Pursuant to Local Rule 7.01(b), Plaintiff/Counter-Defendant WM Capital Partners XXIII, LLC (“WM Capital”) respectfully moves the Court to reconsider its July 10, 2012 Order granting Defendants’ Motion for Additional Time to Respond to WM Capital’s Motion to Dismiss Defendants’ Counterclaims. WM Capital also seeks clarification of the procedural posture of its Motion to Dismiss. In granting the Defendants’ motion, the Court appears to have implicitly held that WM Capital’s Motion to Dismiss was converted to summary judgment and that the Defendants are entitled to take discovery before responding to the Motion to Dismiss. As set forth in greater detail in WM Capital’s Memorandum in Support of this Motion, Defendants’ reasoning supporting their assertions that WM Capital’s Motion to Dismiss should be converted to one for summary judgment and that they are entitled to conduct discovery before responding to WM Capital’s Motion to Dismiss is contrary to well-settled law. WM Capital, therefore, respectfully requests that the Court reconsider its Order.

WHEREFORE, WM Capital requests that the Court order Defendants to respond to the Motion to Dismiss within 14 days. WM Capital also respectfully requests that the Court clarify